

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PHILIP E. DEBLASIO,

Plaintiff,

-v-

NYC HEALTH & HOSPITAL CORPORATION ET AL,

Defendants.  
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18-cv-8530 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

The Court is in receipt of Defendants' motion to dismiss Plaintiff's Complaint based on failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). (Dkt. No. 46.)

Plaintiff, *pro se*, filed his Complaint in this action on September 18, 2018. (Dkt. No. 2.) The Complaint alleges that the New York City Department of Correction's medical providers denied Plaintiff his Hepatitis C medication. (*Id.*) On August 5, 2019, the Hon. Jesse M. Furman (to whom the case was then assigned) issued a scheduling order requiring that all discovery be complete within 6 months of the date of that order. (Dkt. No. 32.) On December 5, 2019, Defendants advised Judge Furman that they had served discovery requests on Plaintiff, which remained outstanding. (Dkt. No. 34.) On February 4, 2020, the case was reassigned to the undersigned. The same day, the Court received a request from Defendants to extend the fact discovery deadline until May 5, 2020. (Dkt. No. 36.) The letter advised that discovery demands had been served on Plaintiff on September 12, 2019 and that no responses had been received. (*Id.*) The letter further advised that Defendants had recently learned that Plaintiff was transferred to a different correctional facility and had not updated his address with Defendants or with the Clerk of Court. (*Id.*) The letter requested the additional time to re-serve previous discovery demands upon Plaintiff at his new address. (*Id.*) The Court granted that request. (Dkt. No. 38.)

The February 4, 2020 letter indicated that Plaintiff's new address is:

Philip E. DeBlasio  
Plaintiff Pro Se  
DIN No: 19-A-0070  
Green Haven Correctional Facility  
594 Rt. 216  
Stormville, New York 12582-0010

(Dkt. No. 36.) But such address was never updated for Plaintiff on the docket. Rather, the docket currently reflects that Plaintiff resides at the Marcy Correctional Facility.

On May 1, 2020, Defendants moved to dismiss Plaintiff's Complaint based on his failure to prosecute this action. (Dkt. No. 43.) That letter reflected that a copy was being sent to Plaintiff at the Green Haven address. (*Id.*) On the same day, the Court ordered Plaintiff to show cause why the action should not be dismissed no later than June 22, 2020. (Dkt. No. 44.) Because the docket still reflected Plaintiff's Marcy Correctional Facility address, a copy of the Court's order was sent there.

Defendants' instant motion relies on the fact that Plaintiff did not show cause as required by the Court's May 1, 2020 order. (Dkt. No. 46.) But the Court now has good reason to believe that Plaintiff never received that order. Indeed, Defendants' instant motion reflects that a copy of the instant motion was sent to the Green Haven address, which the Court construes as a representation from Defendants that such address is the current one for Plaintiff.

Accordingly, the following is HEREBY ORDERED:


1. Both of Defendants' motions to dismiss (Dkt. Nos. 43, 46) are DENIED WITHOUT PREJUDICE. The Clerk of Court is respectfully directed to terminate those motions.
2. The Clerk of Court is respectfully directed to update the address for Plaintiff to the one below:

Philip E. DeBlasio  
Plaintiff Pro Se  
DIN No: 19-A-0070  
Green Haven Correctional Facility  
594 Rt. 216  
Stormville, New York 12582-0010

3. The Clerk of Court is respectfully directed to mail the following documents to Plaintiff's updated Green Haven address: Dkt. Nos. 43, 44, 46, and this order.
4. **No later than September 1, 2020, Plaintiff shall show cause in writing why this action should not be dismissed for failure to prosecute.**

SO ORDERED.

Dated: July 22, 2020  
New York, New York

  
LEWIS J. LIMAN  
United States District Judge